



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION**

**JANIS LOWE, et al.,**  
***Plaintiffs,***

**v.**

**ELTAN B.V., et al,**  
***Defendants.***

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**Civil Action No. 9:05-CV-38**

**ORDER ON VOLUNTARY DISMISSAL**  
**OF DEFENDANT ELTAN, B.V.**

Before the Court is Plaintiffs' *Notice of Dismissal of Defendant Eltan, B.V.* [Clerk's doc. #51]. Plaintiff requests that the Court dismiss his claims against that Defendant without prejudice.

Rule 41(a)(1) pertains to voluntary dismissal if a Plaintiff files "a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs." FED. R. CIV. P. 41(a)(1). Because Defendant Eltan, B.V. had not filed a responsive pleading before Plaintiffs filed their notice, Rule 41(a)(1) applies and the Defendant should be dismissed without prejudice. Having considered the voluntary dismissal, the Court finds it to be meritorious under Rule 41.

The Court accordingly **ORDERS** that Defendant Eltan, B.V. is **DISMISSED** as a party to this action, without prejudice.

**SIGNED** this the 22 day of **August, 2005**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield  
United States District Judge